



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MOP-174476

PRELIMINARY RECITALS

Pursuant to a petition filed May 17, 2016, under Wis. Stat., §49.45(5), to review a decision by the Office of the Inspector General (OIG) to recover Medical Assistance (MA), a hearing was held on July 5, 2016, by telephone. The record was held open 14 days for petitioner to provide additional information.

The issue for determination is whether petitioner was overpaid MA because she failed to report moving to Arizona.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson St., Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Office of the Inspector General
P.O. Box 8938
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Arizona. She formerly received BadgerCare Plus (BC+) MA in Milwaukee County.
2. Petitioner did a BC+ renewal in approximately June, 2015 and BC+ was continued in Wisconsin. Petitioner then moved to Arizona and applied for benefits there in August, 2015. She did not contact the Wisconsin agency to report the move.

3. Petitioner's FoodShare (FS) closed in Wisconsin effective September 1, 2015 because five-month transitional benefits ended.
4. In February, 2016 the Wisconsin MA agency received an alert that petitioner was receiving MA in Arizona. Wisconsin BC+ closed at the end of February.
5. By a notice dated April 12, 2016, the OIG informed petitioner that she was overpaid \$1,294.64 in MA because she did not report her move to Arizona, claim no. [REDACTED]. The overpayment was for HMO capitation payments paid on petitioner's family's behalf from October 1, 2015 through February 29, 2016.

DISCUSSION

MA overpayment recovery is authorized by Wis. Stat., §49.497(1):

(a) The department may recover any payment made incorrectly for benefits provided under this subchapter or s. 49.665 if the incorrect payment results from any of the following:

1. A misstatement or omission of fact by a person supplying information in an application for benefits under this subchapter or s. 49.665.
2. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report the receipt of income or assets in an amount that would have affected the recipient's eligibility for benefits.
3. The failure of a Medical Assistance or Badger Care recipient or any other person responsible for giving information on the recipient's behalf to report any change in the recipient's financial or nonfinancial situation or eligibility characteristics that would have affected the recipient's eligibility for benefits or the recipient's cost-sharing requirements.

See also the department's BC+ Handbook, Appendix 28.2. The overpayment must be caused by the client's error. Overpayments caused by agency error are not recoverable.

An overpayment is determined as follows: "If the case was ineligible for BC+, recover the amount of medical claims paid by the state and/or the capitation rate. Use the ForwardHealth interChange data from the Total Benefits Paid by Medicaid Report(s). Deduct any amount paid in premiums (for each month in which an overpayment occurred) from the overpayment amount." Handbook, App. 28.4.2.

In petitioner's case any Wisconsin MA payments made on her behalf would be considered overpaid because she moved to Arizona and received MA there. Because Wisconsin BC+ recipients are put in HMOs, the state made MA payments in the form of HMO capitation payments even though the recipient was not seeing doctors in Wisconsin.

Petitioner testified that when she applied for benefits in Arizona the worker there contacted Wisconsin to make sure that benefits were closed, and thus petitioner does not understand why Wisconsin MA was not closed. I believe that the call was made, but the Arizona worker most likely was focused on FoodShare because of strict federal FS rules that FS cannot be opened in a state if the applicant still is receiving FS in another state. My guess is that the Arizona worker confirmed that Wisconsin FS were closed, and coincidentally petitioner's Wisconsin FS were slated to close September 1 not because petitioner moved, but because her Transitional FS were ending. To receive continued FS after Transitional benefits end, a

household has to affirmatively request FS to continue. Since petitioner did not, her Wisconsin FS closed. Her BC+, however, remained open.

It is bad luck for petitioner that the events transpired that way, but the result is that petitioner failed to report to the Wisconsin economic support agency that she moved, and Wisconsin BC+ continued for several months until the agency was alerted to the open case in Arizona. Petitioner did not even know that her Wisconsin BC+ remained open because she was not using it here. Nevertheless, I must conclude that petitioner was overpaid the Wisconsin HMO premiums. She did not report her move to Wisconsin, and the contact from the Arizona worker did not serve to inform the Wisconsin agency that petitioner moved; it simply confirmed that Wisconsin FS benefits closed. As petitioner acknowledges, there is no record that the Arizona worker called about Wisconsin MA, or that a Wisconsin worker received a call from petitioner or someone else about petitioner moving to Arizona.

CONCLUSIONS OF LAW

The OIG correctly determined an MA overpayment resulting from petitioner's failure to inform the agency that she moved to Arizona in August, 2015.

THEREFORE, it is

ORDERED

That the petition for review is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

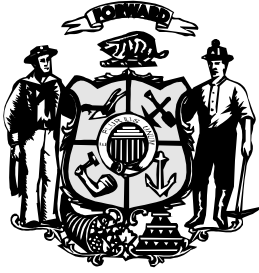
APPEAL TO COURT

You may also appeal this decision to the Milwaukee County Circuit Court. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 19th day of July, 2016

\s _____
Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 19, 2016.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability